IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 26508 of 2006(E)

PETITIONER:

SMITHA GEORGE, KAITHARAN GRANITE PALACE,
KURUMASSERRY, ALUVA, ERNAKULAM DISTRICT.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENTS:

1. **COMMERCIAL TAX OFFICER (VAT),**
   DEPARTMENT OF COMMERCIAL TAXES,
   ALUVA.

2. **SALES TAX INSPECTOR, SALES TAX**
   CHECK POST, WALAYAR, PALAKKAD DISTRICT.

3. **STATE OF KERALA, REPRESENTED BY**
   ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
   TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.JULIAN XAVIER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).26508/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE INTIMATION RECEIVED FROM THE 1ST RESPONDENT COMMUNICATING THE TIN and CST NUMBER.

EXT.P1: COPIES OF THE INVOICES DATED 19.9.2006.

EXT.P3: COPY OF THE MEASUREMENT SLIP FOR THE GOODS UNDER CONSIGNMENT.

EXT.P4: COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT UNDER RULE 4(2A) OF THE ENTRY TAX RULES DATED 22.9.2006.

EXT.P5: COPY OF THE NOTICE ISSUED UNDER S.47(2) OF THE KVAT ACT DATED 22.9.2006.

EXT.P6: COPY OF THE SAMPLE INVOICE FOR SALE BY THE PETITIONER DATED 25.9.2006.

EXT.P6(A): DO. DO. DATED 21.9.2006.

EXT.P6(B): DO. DO. DATED 23.9.2006.

EXT.P7: COPY OF THE INVOICE DATED 9.7.2006 FOR PURCHASE OF GOODS BY THE PETITIONER.

EXT.P7(A): COPY OF THE RECEIPT FOR PAYMENT OF ENTRY TAX AS DEMANDED BY THE 2ND RESPONDENT.

EXT.P8: COPY OF THE INVOICE DATED 2.9.2006 FOR PURCHASE OF GOODS BY THE PETITIONER.

EXT.P8(A): COPY OF THE DEMAND NOTICE FOR ENTRY TAX FOR GOODS UNDER CONSIGNMENT VIDE EXT.P8.

EXT.P8(B): COPY OF THE CASH RECEIPT FOR PAYMENT OF ENTRY TAX AS DEMANDED BY EXT.P8(A).

EXT.P9: COPY OF THE ORDER IN W.P.(C).NO.17582/2006 DATED 7.7.2006.

/TRUE COPY/

P.R.RAMAN, J.

W.P.(C) NO. 26508 OF 2006

Dated this the 10th day of January, 2007

J U D G M E N T

As regards the prayer to declare Kerala Tax on Entry of Goods into Local Areas Act, 1994 is unconstitutional is concerned, it is squarely covered by the Division Bench decision of this court reported in **Thressiamma v. State of Kerala and another (2007 (1) KHC 50)**. The petitioner is thus entitled to the same relief and the levy under the Act is held unconstitutional. According to the petitioner the goods have already been released and the authorities are convinced of the quantity. If any proceedings are pending under the KVAT Act, the same may be expedited and completed.

Writ petition is closed.

P.R.RAMAN, JUDGE

Rp